

#5

April 19, 2022

City of Pocatello
911 North 7th Avenue
PO Box 4169
Pocatello, Idaho 83205

Re: Request for City Council Agenda Item

Dear Mayor Blad:

The City Council approved the Creekside District (2 Lot) short plat on May 7, 2020 and I have entered into a development agreement as reflected on the attached documents. Existing buildings and structures have already been demolished to make way for the development. Issues associated with the Covid Pandemic resulted in deferral of construction of the associated infrastructure additions. Contractor manpower availability and material shortages prevented the work from being performed in 2021. My contractor just said he is now ready to order materials and can schedule the project.

Previously I discussed City Code 16.16.010 Item L with your planning staff but they said there is no time frame problem because I could request an extension off the 2 year expiration. On April 11, 2022 I requested the much needed extension from the planning department and their reply was that they do not have the authority to grant an extension.

Therefore, I am requesting a time slot on the next City Council meeting to request an exception and extend the time frame to allow me to complete the project.

Sincerely,



Michael W. Seibert

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DEVELOPMENT AGREEMENT

THIS AGREEMENT is made and entered into this 11th day of June

2020, by and between the City of Pocatello, a Municipal Corporation of the State of Idaho, hereinafter referred to as the "City", Mike and Kathy Seibert, as vested owners and developers of the real property which is the subject of this Agreement, hereinafter referred to collectively as "Owner" and "Developer" whose address is:

OFFICIAL RECORD BK# /
Mike and Kathy Seibert
1665 Pocatello Creek Road
Pocatello, ID 83201

RECORDED AT REQUEST OF
CITY OF POCATELLO
DEPUTY KP

CITY OF POCATELLO

WITNESSETH 2010112

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WHEREAS, the above is the vested Owner, in law and/or equity, of a certain tract of land in the County of Bannock, State of Idaho, particularly in the attached Exhibit, and commonly known as Creekside District Subdivision, and,

WHEREAS, the Owner and Developer has requested the City of Pocatello approve the development of the same lands, and has submitted to the City a plat thereof which has been recommended for approval by the Planning and Zoning Commission (not on a short plat) and City Engineer or designee of said City; and

WHEREAS, the City Engineer or designee has recommended to the City Council of said City that such development be approved subject to certain requirements and obligations on the part of the Owner and Developer; and

WHEREAS, the said City Council has approved the development of said lands within the City of Pocatello, Idaho, pursuant to the Decision of the City Council;

NOW, THEREFORE, the Owner and Developer agrees, and hereby bind its heirs, successors and assigns to said Agreement, that, in consideration for the approval to develop said area within said City, the Owner and Developer:

1. Will, before development, file or cause to be filed with the City Engineer a complete set of "Subdivision Improvement Plans" showing all right-of-way and infrastructure improvements meeting current City standards and codes. The Subdivision Improvement Plans

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or Plans supplemental thereto shall also show the existing easements and location of encroachments such as, but not limited to, irrigation facilities within said subdivision boundaries that may affect or be affected by the subdivision development. Said "Subdivision Improvement Plans", are incorporated herein and made a part hereof by reference.

2. Will provide copies of all contract documents entered into by the Owner and Developer pertaining to work to be performed on this development project including, but not limited to, plans and specifications associated with the work contracted for, excluding those documents relating to costs.

3. Will, at its own expense, construct and install all sanitary sewers, storm drains, pumping stations, water mains and appurtenances, fire hydrants, sidewalks not associated with building lots, curbs and gutters, cross drains, streets, street surfacing and patchback from any existing roadways to curb and gutter, as well as any and all other improvements shown on the approved Subdivision Improvement Plans in strict accordance with these plans and the City of Pocatello standards and codes as adopted, current and in effect at the time of this Development Agreement.

4. Will complete said construction and installation prior to the Mayor signing the final plat or shall enter into an agreement guaranteeing the installation of all public improvements as provided for in Municipal Code 16.24.110. Building permits will not be issued until all public infrastructure and improvements have been properly constructed, inspected, and officially accepted by the City.

5. Will provide the City Engineer or designee with a schedule of when and of what portion, or portions, of said Subdivision improvements it intends to complete. Any modifications and/or changes to construction shall be submitted and Owner and Developer shall allow at least ten (10) days for review and approval by the City Engineer or designee, prior to work commencing.

Will notify the City Engineer or designee through Developer's and Owner's Registered Professional Engineer and/or contractor, of the schedule and progress of the

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 construction so that the respective City departments can make visual inspections of all water, sanitary sewer, storm sewer piping, and appurtenances associated with infrastructure improvements.

Will, immediately upon the completion of any such constructed portion, portions, or the entirety of said development, notify the City Engineer or designee and request inspection. Once all construction and punch list items have been completed the Owner and Developer shall request a written acceptance of such completed right-of-way and infrastructure improvements.

6. Will have a Registered Professional Engineer supervise the construction of and perform the construction inspection and testing work necessary to ensure that all such improvements are constructed in accordance with the approved Subdivision Improvement Plans and all City of Pocatello standards and codes as adopted, current and in effect at the time of this Development Agreement. The contracted Registered Professional Engineer is Rocky Mountain Engineering and Surveying, LLC, 600 East Oak Street, Pocatello, Idaho 83201.

7. Will have all soils (trenches, roadways, etc.) compacted to the percentages specified in the City of Pocatello Quality Assurance Plan most current and in effect at the time of development, found in the City of Pocatello Public Works Design Principles and Standards manual. The soils shall be tested by a certified technician and the test results submitted to the City Engineer or designee. Upon completion of the work, the soil technician shall certify that all soil work performed by the contractor hired by the Owner and Developer meets the minimum compaction and testing requirements as set out in the City of Pocatello Quality Assurance Plan.

8. Will have all concrete and asphalt work done in compliance with the City of Pocatello Quality Assurance Plan including required testing and certifications. Test results and certifications must be submitted to the City of Pocatello Engineering Department.

Owner and Developer will also provide the City of Pocatello Engineering Department certifications from a Registered Professional Engineer and/or a certified testing laboratory verifying that all materials used on the project meet the specifications set out in the City of Pocatello Public Works Design Principles and Standards, if applicable, otherwise those

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standards outlined in the Idaho Standards for Public Works construction (ISPWC). Certifications from suppliers' testing laboratories are acceptable.

9. Will have "As-Built" or "Record" drawings of all said subdivision improvements prepared by the contracted Registered Professional Engineer and will provide the City with the "corrected" original drawings of the Subdivision Improvement Plans or a duplicate Mylar copy of said "corrected" original drawings and one (1) electronic copy of the same. The original "design" drawings of the proposed subdivision improvements shall be "corrected" to show the actual "As-Built" location (both horizontally and vertically) of the various water, sewer, and storm lines and appurtenances, such as individual building service lines, the curb and gutter alignment and grades, etc. These "As-Built" Subdivision Improvement Plans shall include a "Certification" thereon, signed by the Registered Professional Engineer in charge of the work, that the "As-Built" drawings of the various subdivision improvements are true and correct and that the Registered Professional Engineer has inspected the construction of the various subdivision improvements (water lines, sanitary sewer lines, storm drain lines, sidewalk, curb, and gutter, street paving, etc.) and that the materials for and the installation of the same were all done in conformance with the applicable City of Pocatello standards and specifications governing the construction of these facilities at the time of construction.

10. Will remove from all public and private property all temporary structures, rubbish, and waste materials resulting from their operation or caused by its employees. The overall cleanup of the subdivision shall be done prior to acceptance of the development. All temporary and permanent sediment and erosion control and stabilization shall be placed and functioning.

11. Will guarantee all materials, workmanship and equipment furnished for a period of two (2) years from the date of written acceptance of the work. There shall be a subdivision warranty bond as required by City of Pocatello ordinance in place naming the City of Pocatello as the beneficiary throughout the two (2) year guarantee. At the conclusion of the two year guarantee there shall be an asphalt treatment placed on all roadways within the

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development or have the same paid to the City which will be incorporated into the City's street treatment program.

12. Will pay, or cause to be paid, to the City prior to the time of recording of the plat associated with this project any annexation water requirements pursuant to Resolution 2006-02.

13. Special Considerations and Agreements

Owner and Developer agrees to:

- (A) Abide by all conditions set out in the City Council Decision Short Plat Approval, dated May 21, 2020, and the Memorandum from Merrill Quayle, Public Works Development Engineer, dated April 9, 2020, attached thereto and recorded with the Bannock County Clerk and Recorder as Instrument Number 22008635, which Decision is attached hereto and incorporated herein as Exhibit "A".
- (B) Make corrections in accordance with all comments and conditions noted on the construction drawings prior to recording the final plat.
- (C) Submit one hard copy and one electronic copy of any Covenants, Conditions, and Restrictions (CCR's), agreement, or documents to be made part of said plat to the City after recording.
- (D) Comply with all other standards or conditions required by Municipal Code not herein addressed but applicable to commercial development.

14. This Development Agreement shall be valid and binding upon execution by the Mayor and the Owner and Developer.

15. All covenants and conditions set forth herein shall be appurtenant to and shall run with the land and shall be binding upon Developer's and Owner's heirs, successors or assigns.

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IN WITNESS WHEREOF, the City of Pocatello has affixed its seal and caused these presents to be executed by its Mayor thereunto by decision of its City Council duly authorized and the Owner and Developer have caused these presents to be executed the day and year first above-written.

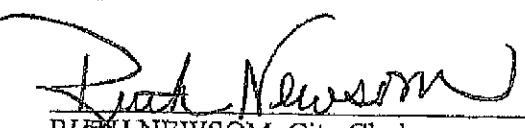
Approved as to form and content

CITY OF POCA TELLO, IDAHO

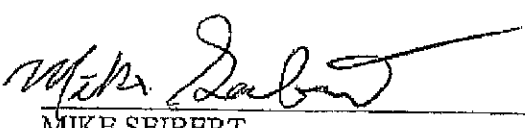

JARED JOHNSON, City Attorney


BRIAN C. BLAD, Mayor

ATTEST:


RUTH NEWSOM, City Clerk

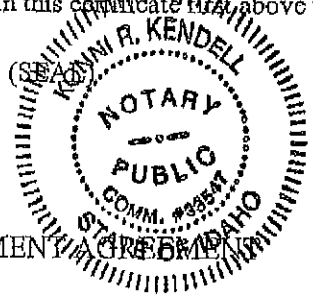
OWNER AND DEVELOPER:



MIKE SEIBERT

STATE OF IDAHO)
) : ss
County of Bannock)

On this 11th day of June, 2020, before me, the undersigned, a Notary Public in and for the State, personally appeared Brian C. Blad and Ruth Newsom, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, a municipal corporation of Idaho, who executed the foregoing instrument on behalf of said municipal corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate above written.




NOTARY PUBLIC FOR IDAHO
Residing in: AMERICAN FALLS, ID
6 EXP. 3-22-24

DEVELOPMENT AGREEMENT

Advised

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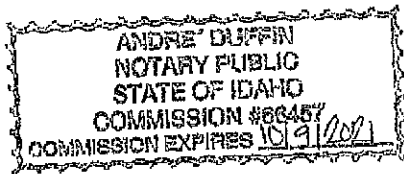
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STATE OF IDAHO)
 : ss
County of Bannock)

On this 9th day of June, 2020, before me, the undersigned, a Notary Public for the State, personally appeared Mike Seibert, known to me or proved to me to be the individual, who executed the foregoing instrument as the Owner and Developer, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the date and year in this certificate first above written.

(SEAL)



Andre Duffin
NOTARY PUBLIC FOR IDAHO
Residing in: Perdello, ID

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~~CITY OF POCATELLO~~

Date: 5/27/2020 Time: 10:20 AM

Official Record Book

Bannock County Recorder

Fee: 0 Deputy: *AM*

**CITY COUNCIL DECISION
SHORT PLAT APPROVAL
CREEKSIDE DISTRICT SUBDIVISION**

Mike and Kathy Seibert, the Developer and Owner, represented by Rocky Mountain Engineering and Surveying, LLC, submitted a short plat application to subdivide approximately 3.57 acres of land into two (2) commercial lots. This property is zoned Commercial General (CG) and is located at west of Edahow Elementary on Pocatello Creek Road, Pocatello, more particularly being described on the attached Exhibit "A".

This matter came before City Council at its regularly scheduled meeting on May 7, 2020, at which time the City Council approved the short plat for Creekside District Subdivision and authorized City staff to sign the plat, subject to the following conditions:

1. All conditions on the Subdivision Application Staff Report attached hereto as Exhibit "B", and incorporated herein, shall be met.
2. All conditions set out in the Public Works Department Memorandum from Merrill Quayle, P.E. dated, April 9, 2020, attached hereto and incorporated herein as Exhibit "1" to Exhibit B, shall be met.
3. Subdivision Covenants, Conditions and Restrictions (CCR's), if applicable, shall be submitted to the City.
4. The plat shall conform to all State and local laws and ordinances.
5. All other standards and conditions of Municipal Code not herein discussed but applicable to residential development shall apply.

Notice is hereby given that applicant has the right to challenge this Decision and request a regulatory taking analysis pursuant to Idaho Code Section 67-8003 within 28 days after this Decision.

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EXHIBIT A

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 6 SOUTH, RANGE 34 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SECTION 13, BEING MARKED BY A BANNOCK COUNTY MONUMENT PER CORNER PERPETUATION RECORDED AS INSTRUMENT NO. 653043 IN THE OFFICIAL RECORDS OF BANNOCK COUNTY;

THENCE SOUTH 0°28'03" WEST, ALONG THE MERIDIONAL CENTERLINE OF SECTION 13, A DISTANCE OF 242.00 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 0°28'03" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 242.00 FEET;

THENCE SOUTH 89°55'44" WEST A DISTANCE OF 411.00 FEET;

THENCE NORTH 0°28'03" EAST A DISTANCE OF 484.00 FEET TO A POINT ON THE LATITUDINAL CENTERLINE OF SECTION 13, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE POCATELLO CREEK ROAD;

THENCE NORTH 89°55'44" EAST, ALONG SAID CENTERLINE AND RIGHT-OF-WAY, A DISTANCE OF 231.00 FEET;

THENCE SOUTH 0°28'03" WEST A DISTANCE OF 242.00 FEET;

THENCE NORTH 89°55'44" EAST A DISTANCE OF 180.00 FEET TO A POINT ON THE MERIDIONAL CENTERLINE OF SECTION 13, SAID POINT BEING THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 3.57 ACRES, MORE OR LESS.

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Planning & Development Services

PLANNING SERVICES

NEIGHBORHOOD & COMMUNITY SERVICES

811 NORTH 7TH AVENUE | P.O. Box 4169

POCATELLO, IDAHO 83205-4169

208.234.6184

WEB <https://www.pocatello.us>

SHORT PLAT SUBDIVISION APPLICATION CITY COUNCIL MEETING: May 7, 2020

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SUBDIVISION:	Creekside District	FILE # 20-982
APPLICANT/OWNER:	Mike & Kathy Seibert	
SURVEYOR/ENGINEER:	RMES	
TITLE REPORT:	Title report was submitted and reviewed	
LOCATION:	1755 Pocatello Creek Road – west of Edahow Elementary School	
LOTS/UNITS:	Two (2) commercial lots	
STAFF:	Matthew G. Lewis, Senior Planner	NGP

RECOMMENDATION & CONDITIONS:

Staff finds that the proposal is compliant with all applicable standards of Pocatello Municipal Code Sections 16.16 and 16.24, assuming compliance with the following conditions:

1. All comments contained in the Public Works Memorandum, dated April 28, 2020, shall be adhered to;
2. Recorded Owner's Covenants, Conditions and Restrictions (CC & R's) for the subdivision, if any, must be submitted after the recording of the final plat; and
3. All other standards or conditions of Municipal Code not herein stated but applicable to land subdivision and residential development shall apply.

REQUEST: Mike & Kathy Seibert, represented by Mitch Greer of Rocky Mountain Engineering & Surveying, has submitted a short plat application requesting to subdivide 3.57 acres (+/-) of land into 2 commercial lots. Municipal Code does not require a minimum lot size for commercial development. Lot 1 consist of an existing home addressed as 1755 Pocatello Creek Road will be demolished or relocated when development occurs. Lot 2 consist of 1.99 acres (+/-). The short plat will be known as Creekside District Subdivision.

RIGHT OF WAY/INFRASTRUCTURE: The proposed subdivision includes platting of a proposed right-of-way to be known as Creekside Drive. Public Works staff are requiring that an "R" restriction shall be placed on Lot 1 specifically prohibiting access from Pocatello Creek Road (see 2. Construction Plans/Infrastructure 3. xii of attachment A).

UTILITY PROVIDER & CITY DEPARTMENT NOTICE: Utility providers and affected City departments were provided notice on April 13, 2020. City staff comments/conditions are summarized in Attachment A.

ATTACHMENTS:

- A. Public Works Memorandum, dated April 28, 2020
- B. Application & Subdivision Plat





Public Works
 911 North 7th Avenue P.O. Box 4169
 Pocatello, ID 83205-4169
 Phone (208) 234-6225 Fax (208) 234-6151

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Memorandum

To: Matthew Lewis, Senior Planner

From: Merrill Quayle PE, Public Works Development Engineer MB
 Owen Campion, Sr. Engineer Technician

Date: April 9, 2020

Re: Creekside District - Division 1 - City Council Short Plat (May 7, 2020)

The Public Works Departments have reviewed the final plat/construction drawings application for the above mentioned project and submits that the following changes and items shall be addressed and approved prior to recording of the plat. Approval is contingent on the completeness, accuracy, serviceability, and compliance to City Standards.

1. Plat

- A. Prior to recording the Plat, a more inclusive and comprehensive review shall be done, coordinate all plat correction through City Surveyor.
- B. Subdivision plat shall conform to all state and local laws and ordinances.
- C. Notes on the plat shall be approved by the City of Pocatello Engineering and Legal Department prior to recording.
- D. The City of Pocatello certificate to read: The plat on which this certificate appears is hereby approved and the dedications are hereby accepted by the City of Pocatello...
- E. Submit any CCR's associated with this plat to the City Engineering Department after recording.
- F. Provide adjoining property owners recorded deeds, a copy of all recorded easements and document(s) which grants the signatory to sign the plat on the behalf of the owner(s) to the City Surveyor for final review.
- G. The plat shall be reproducible on an 8.5x11 sheet of paper per Bamcock County instructions.
- H. The plat shall be black opaque ink, no gray scale or color
- I. Add note, "Easements not depicted: All lots in this subdivision are subject to a drainage easement equal to the primary structure setback line along all lot lines. Lots must be graded and maintained so as to minimize drainage to adjoining properties."

2. Construction Plans/Infrastructure

A. General

1. Fix all graphic scales for "B" size sheets on all pages.
2. Sheet C-3.1
 - i. Looking at the spot elevations, it seems that all the curb and gutter straight grades from one point to the next. But looking at the storm system, this is not the case. Please place low point and / or catch basin rim elevation points on the grading plan.
3. Sheets C-4.1, C-4.2, and C-4.3
 - i. Fix all FH to match city details (callouts, drawn in plan view, water pipe sizes, water valve sizes, etc.). Remove all unnecessary call outs.
 - ii. Fix all Sheet Key Maps.
 - iii. Proposed sewer manholes and / or existing manholes need to be located in pavement or gravel areas so they are directly accessible via the Jet Truck. These manhole can be



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- moved to such an area or a pavement / gravel section needs to be constructed to get access. Access shall not be in a parking stall.
- iv. Existing sewer private line needs to be inspected and has to meet current standards for construction before it will be accepted by the city.
 - v. Proposed sewer service line heading east to existing home cannot extend more than 100-feet without an additional sewer clean out. Please add one so that no section of sewer service is longer than 100-feet
 - vi. Show pavement repair / demo for water line placement in Pocatello Creek Rd. Call out City of Pocatello patch back detail PSD-309. Refer to the city patch back standards for pavement patch back sizes.
 - vii. Add note that the city water department will perform live water tap off of the main line in Pocatello Creek Rd. at contractor expense.
 - viii. The location of the catch basin shows that they are to be placed too far back and that the grates are going to be in the curb line. Please verify that this is not the case.
 - ix. Add additional sidewalk to connect private pedestrian path to public road system.
 - x. All access points/curb radii shall meet the ADA Requirements.
 - xi. Look at combining some of the access points. The access currently does not look like it will meet standards for spacing.
 - xii. Remove current access to Lot 1 from Pocatello Creek. New access will be from Creekside Drive.
4. Sheet C-5.1
- i. Show all sewer and storm systems
 - ii. Add rip rap or some erosion control measure to ensure that no erosion damage will take place at the end of the inlet pipe shown going into the pond.
5. Sheet D-1.2
- i. Inlet Protection Detail. Please refer to RMES plans for Crestview Cove and the detail used there for inlet protection. We prefer this method then what is shown in this set of plans.
6. Any utility service installation will be the responsibility of the developer and at their expense. Coordination with the Water and Engineering Department is required prior to installing services.
7. Provide evidence that all structures are on their own sewer and water service lines, such as Closed Circuit Television (CCTV). If it is found that the structures are on the same or a common line, then provide easements and separate sewer and water service lines prior to recording the plat. Separate water per City Code 13.04.080, separate sewer per Idaho State Plumbing Code section 7.13.

3. General Notes

- 1. All Right-of-Way improvements must be constructed prior to the recording of the plat unless the developer wishing to apply for a Surety Bond as defined in ordinance 16.24.110: **SUBDIVISION SURETY BOND AND WARRANTY BOND**, for work that is not complete.
- 2. The construction contractor will need to be bonded with the City of Pocatello for a minimum of \$50,000.00 or the subdivision shall be bonded per ordinance 16.24.110: **SUBDIVISION SURETY BOND AND WARRANTY BOND**, a warranty bond for a minimum of twenty-five thousand dollars (\$25,000.00) or a maximum of five percent (5%) of one hundred twenty-five percent (125%) of the original cost estimate for the required infrastructure and improvements, whichever is the greater amount.